

2000-05-02
INVESTMENT PROCUREMENT POLICY

The Board of Trustees of the Indiana State Teachers' Retirement Fund ("Fund") is committed to utilize a public and competitive process in making its investment procurement decisions.

Procurement Authority

(a) Except as provided by section (k) below the Executive Director, with approval of the Board of Trustees, shall have the full and complete authority to enter into all contracts on behalf of the Fund for investment consulting, custodian, and investment management services.

(b) The Executive Director may appoint one (1) person employed by the Fund to supervise and manage the contracts covered by this policy. This person shall have such authority as may be set forth in this policy or as may be delegated by the Executive Director in writing.

Procurement Policy

(a) In all procurement decisions, the Executive Director shall take into account the particularly sensitive nature of the Fund and shall consider the competence, quality of product, experience, and timely performance of the vendors in order to promote and ensure security, fairness, and integrity in the procurement process.

(b) All decisions made under this policy by the Executive Director shall be final except as otherwise specifically set forth in this policy.

(c) The Board of Trustees intends to operate with written contracts whenever feasible.

(d) The Board of Trustees intends that its Investment Policy control in all circumstances.

Applicability

This policy is meant to govern the procurement of investment consulting, custodian, and investment management services, except for amendments, modifications, or extensions of existing contracts, unless the predominate purpose of an amendment or modification is to avoid the applicability of this policy. However, if an emergency exists with respect to any Fund assets, the Executive Director or the Board of Trustees may take any actions they deem necessary and appropriate to safeguard the assets for a temporary period, until permanent disposition of those assets can be made under this policy.

PROCUREMENT PROCEDURE - REQUESTS FOR INFORMATION & PROPOSALS

(a) The Executive Director or the Executive Director's designee shall procure goods or services covered by this policy through the use of a request for proposal.

(b) Proposals shall be solicited through a request for proposal (RFP) or a request for proposal after issuing a request for information (RFI). An RFP must include the following:

(1) Factors or criteria that will be used in evaluating the proposals.

(2) General statement concerning the relative importance of price and the other evaluation factors.

(c) Public notice shall be given in the manner described in this policy.

(d) Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation.

(e) A register of proposals shall be prepared and must be open for public inspection after contract award. The register of proposals must contain the following:

(1) Copy of the request for proposals.

(2) Listing of all proposals received.

(3) General basis on which award was made.

(4) Entire contents of the contract file except for proprietary information or financial information which was not required to be made public by the terms of the request for proposal itself.

(f) If an RFI is utilized, then the following procedure will be used:

(1) The Fund will publish the RFI pursuant to procedures set out in subsection (j).

(2) The Fund will review all RFI responses received.

(3) The Fund will determine the general basis on which an RFP will be issued.

(4) The Fund will issue an RFP in accordance with the provisions of this policy.

(5) The Fund will develop a register of proposals, as required in subsection (e).

(g) The request for proposal will contain a clear statement as to whether or not any communication with the Fund may be initiated by a respondent after publication of the request for proposal and before final selection, what may be contained in such communication, who the respondent may contact, and whether or not the Fund will respond. However, the Fund reserves the right to discuss any part of any response at any time for the purpose of clarification. No member of the Board of Trustees, employee of the Fund, or consultant or advisor to the Fund

shall have any communications with a respondent or a representative of the respondent about the respondent's proposal or the request for proposal after publication and before final selection, except as otherwise provided in the request for proposal. Respondents must be given equal access to any communications about the request for proposal between the Fund and other respondents. The Fund will make available a recapitulation of the subject matter of any communication and the response of the Fund. The Fund may make such information available by posting it on the internet. Respondents must be accorded fair and equitable treatment with respect to any opportunity for discussion and revision of proposals. In conducting any communications, there must be no disclosure of any information derived from proposals submitted by competing respondents.

(h) Award shall be made to the responsible respondent whose proposal is determined in writing to be most advantageous to the Fund, taking into consideration price and other evaluation factors set forth in the request for proposals, and the applicable provisions of IC 5-10.2 and 5-10.3.

(i) The only factors or criteria that may be used in the evaluation of proposals are those specified in the request for proposals and the applicable provisions of IC 5-10.2 and 5-10.3.

(j) If the Fund uses an RFI as described in subsection (f), then this publication section applies to the publication of the RFI, and the RFP is not required to be published. Public notice of an RFP (or RFI, if applicable) shall be made by publication at least once in one (1) newspaper of general circulation in Marion County, Indiana. The Executive Director may designate additional newspapers or industry publications for the publication of notice, such as Pensions and Investments. The Executive Director may send notices or requests for proposals by mail to prospective bidders or offerors known to the Executive Director to be reasonably susceptible to award of the contract. However, failure to give notice to a particular bidder or offeror does not invalidate a procurement under this rule.

(k) If the Board determines that it is in the best interests of the Fund to use a procurement method other than described in sections (a) through (j) above, the Board on its own motion may approve such method. Any method approved by the Board shall be in compliance with all federal, state, and common law fiduciary and ethical standards.

Cancellation; Rejection; Amendment of Solicitations

(a) When the Executive Director, with approval of the Board of Trustees, determines that it is in the best interests of the Fund, any request for proposal may be withdrawn or cancelled. Additionally, the Executive Director may reject in whole or in part any bids, proposals, or offers that have been submitted at any time prior to the effective date of the resulting contract.

(b) The reasons for the withdrawal, cancellation or rejection must be made a part of the record.

(c) The Executive Director may amend any solicitation in any manner provided that notice is given in a manner reasonably calculated by the Executive Director to provide fair and equitable notice to the potential vendors.

Disclosure Requirements for Procurements

(a) All respondents shall submit the information required by the process at the time of submission of its bid, proposal, or offer. Immediately prior to execution of a contract by a vendor, the vendor shall update the disclosures. The vendor shall be under a continuous duty, in accordance with the provisions of the vendor's contract.

(b) The Executive Director may require such additional disclosures as may be desired for the purpose of enforcing, auditing, investigating, or confirming the accuracy of the disclosures or for any proper purpose.

Contract Terms

No contract shall obligate the Fund for a period in excess of five (5) years. Any contract may contain one (1) or more option periods or provisions for extensions of the contract term, provided that:

(1) any individual option period or extension does not exceed five (5) years in duration; and

(2) any individual option period or extension may become effective only upon the specific, affirmative exercise of the option, or the specific, affirmative agreement to the extension, by the Executive Director.

Contract Clauses

No contract with the Fund may contain any terms or provisions which are prohibited by Indiana or federal law. If it is determined that any term or provision is invalid or unenforceable, such terms will be severed from the contract. The remaining terms and provisions shall be unimpaired and interpreted as if such invalid provisions were not contained in the contract.

Public Records

(a) Except as provided in subsection (b), all procurement records shall be available for public inspection following award of the contract or cancellation of the procurement, except to the extent the disclosure is prohibited by law.

(b) The Executive Director may except from public disclosure, at any time, procurement records which are exempt from mandatory disclosure under IC 5-14-3-4(b).

PROCUREMENT CLAIMS AND APPEALS

Application

Pursuant to IC 4-21.5-2-5(11), procurement decisions by the Fund or the Executive Director are not subject to IC 4-21.5. In lieu thereof, vendors or prospective vendors, shall follow the procedures of and have the remedies available under this policy in the event of a protest of any procurement decision of the Executive Director or his designee.

Appeal of Award or Decision to Award a Contract

(a) Any prospective vendor may appeal the award or decision to award a contract by filing a written appeal within seventy-two (72) hours after the award, after receipt of notice of the award, or after the announcement of the decision to award is posted or published, whichever occurs first.

(b) The only grounds for filing an appeal under this policy are as follows:

(1) A procurement decision was not made in compliance with the procedures required by this policy.

(2) A procurement decision was made in violation of any rules regarding ethics promulgated by the Fund.

(c) The appeal shall be in writing and shall state the following, the decision which is being appealed, all grounds for the appeal, and any other information necessary to identify the contract, bid, or request involved in the appeal. It shall also include all evidence or supporting material the prospective vendor wishes to submit.

(d) No appeal shall be made under this policy on the grounds that the prospective vendor was not determined to be a responsible bidder.

Notice

A notice of appeal shall be filed by mailing the notice to the Executive Director at the principal office of the Executive Director in Indianapolis by registered or certified mail, return receipt requested, or by delivering the notice of appeal to the principal office of the Executive Director in Indianapolis. Filing by registered or certified mail shall be effective upon mailing.

Executive Director's Review of an Appeal

The Executive Director shall issue a decision on a claim within thirty (30) days after the claim was filed, which shall be final. The Executive Director shall state the reasons for denial of any appeal filed under this policy. A copy of the decision shall be mailed by certified or registered mail, return receipt requested, to the entity who filed the claim. The decision may order such relief (if any) as is in the best interests of the Fund. Relief may include, but is not limited to, voiding the selection and redoing the process, and damages.

